

**OFFICE OF PERSONNEL MANAGEMENT
CLASSIFICATION APPEALS OFFICE
WASHINGTON, DC 20415**

**CLASSIFICATION APPEAL DECISION
Under Section 5112(b) of Title 5, United States Code**

Appellant: [appellant's name]

Position: Procurement Analyst
GS-1102-13
Position Number N90012

Organization: Department of Health and Human Services
Public Health Service
[higher level agency component]
Office of Administration and Management
Contracts and Grants Policy Division
[lower level organizational component]
[location/address]

Decision: Procurement Analyst
GS-1102-13
(Appeal denied)

OPM Decision Number: C-1102-13-01

Linda Kazinetz
Classification Appeals Officer
Washington Oversight Division

Date (December 19, 1996)

Copy of decision transmitted to:

[appellant's name and address]

[name]

Director, Division of Personnel Management

[higher level agency component name and address]

[name]

Deputy Assistant Secretary for Personnel Administration

Department of Health and Human Services

HHH Building, Room 522A

200 Independence Avenue, S.W.

Washington, D.C. 20201

INTRODUCTION

On September 4, 1996, the Washington Oversight Division accepted a position classification appeal from [appellant's name], who is employed as a Procurement Analyst, GS-1102-13, in the [lower level organizational component] of the Contracts and Grants Policy Division, Office of Administration and Management, at the [higher level organizational component], Department of Health and Human Services, in [location/address]. [appellant's name] requested that her position be classified as Procurement Analyst, GS-1102-14.

This is the final administrative decision of the Government, subject to discretionary review only under the conditions and time limits specified in Part 511, subpart F, of title 5, U.S. Code of Federal Regulations.

SOURCES OF INFORMATION

In deciding this appeal, we considered information obtained from the following sources:

1. The appellant's letter of appeal dated August 27, 1996, with attachments.
2. The information submitted by the servicing personnel office at the [higher level organizational component] on September 24, 1996.
3. The OPM desk audit of the appellant's position on December 3, 1996, and a telephone interview with the acting Division Chief [name], on December 18, 1996.
4. Additional written materials and work samples furnished by the appellant during the OPM review.

POSITION INFORMATION

The appellant's duties and responsibilities are described in position description number N90012, which was classified as Procurement Analyst, GS-1102-13, by the [higher level organizational component] on February 15, 1990.

The appellant serves as a staff-level Procurement Analyst at [higher level organizational component] headquarters. Her primary ongoing responsibilities include conducting periodic field reviews of contracting operations at the fifteen [higher level organizational component] area offices to evaluate their effectiveness and compliance with legal and regulatory requirements, and preparing reports of findings with recommended scores and corrective actions; providing technical advice and assistance to field Contracting Officers in the interpretation of acquisition policies and regulations and the resolution of complex contractual problems; reviewing and preparing comments on proposed contract-related legislation, regulations, and directives; and preparing responses to Congressional and public inquiries regarding [higher level organizational

component] contracting activities. These duties are generally covered in her position description of record.

The appellant has also been assigned certain long-term special projects that are not documented in her position description. She is currently in the process of revising the existing procurement review guide (originally developed by the Public Health Service for use in evaluating bureau-level contracting activities) to incorporate regulatory changes, procedures for implementing the purchase card program, and contracting guidance specific to [higher level organizational component], and will hereafter be responsible for its maintenance. She is serving as team leader for [higher level organizational component] implementation of a Federally-mandated Electronic Commerce system that will allow for full automation of the purchasing process. This is being accomplished through modification of their existing Administrative Resource Management System (ARMS), which can generate certain contracting documents but does not have the capability to transmit material electronically. The appellant provides procurement expertise in identifying the limitations of the existing system and defining requirements for automating these transactions by computer personnel. The appellant is also the [higher level organizational component] representative on a Departmental work group tasked with developing CD-ROM procurement courses to replace some of the on-site courses currently being offered. Her role to date has consisted of participating in some taped question-and-answer sessions, portions of which will be incorporated in the CD-ROM courses.

SERIES AND TITLE DETERMINATION

Series

The appellant's position is properly classified to the Contracting Series, GS-1102, which covers positions that manage, supervise, perform, or develop policies and procedures for work involving the procurement of supplies, services, construction, or research and development using formal advertising or negotiation procedures.

Title

The appellant performs staff-level work involving the review of contracting activities at lower organizational echelons to ensure compliance with applicable acquisition laws and regulations, and the development of procedures and systems to facilitate and streamline the procurement process. As such, her position is titled as Procurement Analyst, which covers positions involved in planning and evaluating procurement programs; reviewing proposed contractual actions for conformance with regulatory requirements; or developing policies and procedures for application by subordinate activities.

GRADE DETERMINATION

The appellant's position was evaluated by application of the standard for the Contracting Series, GS-1102, dated December 1983. This standard is written in the Factor Evaluation System (FES)

format, under which factor levels and accompanying point values are to be assigned for each of the following nine factors, with the total then being converted to a grade level by use of the grade conversion table provided in the standard. The factor point values mark the lower end of the ranges for the indicated factor levels. For a position to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor level description. If the position fails in any significant aspect to meet a particular factor level description, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect that meets a higher level.

Factor 1, Knowledge Required by the Position

This factor measures the nature and extent of information an employee must understand in order to do the work, and the skills needed to apply that knowledge.

At Level 1-8, assignments require mastery of procurement principles and technical or program requirements to apply new developments to problems not susceptible to treatment by accepted methods, to extend existing contracting techniques, and to develop procurement policies for use by other contracting personnel in solving procurement problems; or to make decisions or recommendations that significantly affect the content, interpretation, or development of complex, long-range agency policies or programs concerning the management of procurement matters. An example of a staff-level assignment provided by the standard to illustrate Level 1-8 is as follows:

Knowledge and skill sufficient to provide expert technical leadership, staff coordination, and consultation in a functional area of procurement (e.g., preaward or cost/price analysis) including responsibility for formulating guidelines, implementing new developments, and providing policy interpretation to subordinate contracting activities.

The knowledge required by the appellant's position is comparable to Level 1-8. Corresponding to that level, the position requires in-depth knowledge of Federal procurement laws and regulations and of contracting operations and program requirements in order to review the procurement programs of IHS field offices for regulatory compliance and soundness of the business practices employed. The appellant identifies program deficiencies or misinterpretations of procurement law and regulations, and specifies the changes in operating procedures that should be instituted at the local level to correct the problems identified. The work may involve the adaptation of procedures and techniques to meet the unique requirements of Indian preference law and regulations that mandate departure from the standard practices that otherwise govern commercial procurements. Where systemic problems are evidenced, the appellant may recommend and/or draft supplementary [higher level agency component] guidelines for application by contracting personnel at the field office level. In addition, the appellant, through her role in developing and ultimately implementing an [higher level organizational component]-wide Electronic Commerce system, provides technical leadership and staff coordination in

applying new developments to simplify the purchasing process throughout the organization, consistent with the illustrative assignment cited above.

The position does not meet Level 1-9. At that level, work may involve either operational assignments in planning and managing or reviewing and recommending to top management the approval of procurements for critical agency systems and programs within a major industry, or staff-level work in formulating new policies and concepts and advising management on issues and policy proposals affecting those procurements. In either case, however, the procurements are characterized by most or all of the following elements: (1) uncertainties involving the legislation, authorities, and scope of the program resulting from intense congressional interest; (2) unprecedented factual or contractual issues stemming from the newness or complexity of the system, intergovernmental requirements, or comparable conditions; (3) contract negotiations which require balancing conflicting interests of extreme intensity, such as those resulting from public and political controversy or attention by the national news media; and (4) systems of such magnitude as to affect the economic health of a major industry whose economic position affects the stability of the national economy. An example of a staff-level assignment provided by the standard to illustrate Level 1-9 is as follows:

The employee is a recognized expert responsible for generating new procurement concepts to resolve problems or issues having characteristics such as those described above; for formulating new procurement policies which have a broad or long-range impact on the procurement program of a major department or agency; and for advising top management during the executive and/or legislative decision making process on procurement issues and policy proposals which have exceptional controversy, intensive legislative interest or initiatives, or affect a major segment of industry.

Thus, the two major elements of Level 1-9 for staff-level positions are that (1) the employee must have significant policy development responsibilities and (2) the policies and issues dealt with must directly affect major procurements that are distinguished by their newness, complexity, magnitude, or the degree of public or congressional interest they have attracted. The appellant's position does not share these characteristics. Procurement activity by [higher level organizational component] consists exclusively of medical supplies and services, renovation and maintenance of hospitals and clinics, and standard office supplies and equipment. These types of commodities and services are neither prototypical, complex, controversial, nor of such high dollar value as to have a significant impact on a major industry. Further, the appellant's primary influence, through the conduct of field reviews, is on the procurement process (i.e., ensuring the legal and regulatory compliance of individual transactions) rather than on policy issues that directly and significantly affect the organization's overall procurement program. This involvement is considerably more limited than that intended by the standard at this level. The standard clearly contemplates an in-depth, ongoing advisory role, where the employee would be advising top management on major procurements and formulating new policies and concepts that have a broad or long-range impact on the agency's overall procurement program. By contrast, the [higher level organizational component] field Contracting Officers have unlimited contracting

authority, so the appellant would not normally be involved in individual transactions even if they were of the magnitude required at this level.

Level 1-8 is credited.
points

1550

Factor 2. Supervisory Controls

This factor covers the nature and extent of direct or indirect controls exercised by the supervisor, the employee's responsibility, and the review of completed work.

At Level 2-4, the employee works within a framework of overall objectives and available resources, and consults with the supervisor in developing the deadlines, projects, and work to be done. The employee plans and carries out the work, such as determining the approach to be taken or methodology to be used, developing a factfinding plan, determining the depth of analysis or review required, or performing the initial planning necessary to conduct management evaluations of procurement programs for compliance with policies and regulations. The employee initiates necessary coordination with staff both in the Government and in the contractors' organizations, obtains necessary information and supporting documentation, and resolves most conflicts that arise. The employee keeps the supervisor informed of progress, potential controversies, or matters that affect policy or have other far-reaching implications. Completed work is reviewed from an overall standpoint in terms of feasibility, compatibility with other work, or effectiveness in meeting requirements.

At Level 2-5, the supervisor provides administrative direction and makes assignments in terms of broadly defined programs or functions, or long-range acquisition and agency objectives. Requirements frequently stem from mission or program goals and objectives, or from national or agency policy. The employee determines the approaches necessary to meet program requirements and time frames, including the design of overall plans and strategies for the projects, and independently carries out the work, including continual coordination of the various elements involved, and negotiates independently. Work products or advisory services provided to management or field activities are considered technically authoritative. Recommendations for new procurement approaches or policies are usually reviewed for compatibility with broad program and agency objectives, impact on agency procurement activities, economies achieved, and/or improved performance of agency procurement programs.

Both Levels 2-4 and 2-5 describe positions of highly skilled technical experts who carry out their work largely independently. The major distinctions are: (1) at Level 2-4, the employee works within a program framework and receives project assignments, whereas Level 2-5 includes an element of overall program authority, with the employee responsible for designing the plans and strategies by which broad projects will be undertaken; and (2) at Level 2-4, work receives some degree of technical review or oversight for feasibility of the contracting approach and effectiveness in meeting requirements, whereas at Level 2-5 work is reviewed more for broader considerations such as impact on the overall procurement program or the economies achieved.

The supervisory controls under which the appellant operates match Level 2-4. The appellant works within the context of a review schedule wherein the field offices are evaluated either on a cyclical basis or in response to problems that have been previously identified. In this respect, her position is indicative of Level 2-4 in that the projects are predetermined and she does not have what can be considered program authority in planning the overall review function (which role is assumed by either the Chief of the [lower level organizational component] or, during the continuing vacancy of that position, by the Division Chief.) Although she serves as team leader for the Electronic Commerce implementation project, the technical and programmatic requirements are largely defined, leaving little latitude for the exercise of independent authority on the design and approach of the project. Both the appellant's first and second line supervisors are procurement professionals (i.e., the Branch Chief position, currently vacant but expected to be filled as part of the consolidation of two existing branches, and the Division Chief position), so although she may be relied upon as a senior analyst, a certain degree of technical oversight is inevitable. In short, although some of her work may be self-initiated, she does not occupy a program management role and does not operate with the authority or independence expected at Level 2-5.

Level 2-4 is credited.
points

450

Factor 3. Guidelines

This factor covers the nature of the guidelines used and the judgment needed to apply them.

At Level 3-4, policies and precedents are available but stated in general terms, or are of limited use. Intensive searches of a wide range of regulations and policy circulars applicable to the numerous and diversified procurement issues encountered are frequently required. Guidelines are often inadequate in dealing with problems, requiring judgment, ingenuity, and originality in interpreting, modifying, and extending guides, techniques, and precedents; in balancing the application of the guidelines in relation to novel program or technical needs, business considerations, and the socioeconomic climate; in evaluating subordinate procurement programs; or in researching trends and patterns to develop new approaches, criteria, or proposed policies.

The appellant's use of guidelines meets Level 3-4. The available regulations and directives are not always entirely applicable in resolving problems that arise under the [customer identifying information] authority or other areas involving health care delivery systems and professional services. The appellant must use judgment in interpreting the intent of these guidelines when evaluating subordinate procurement programs, and originality in developing new guidelines (such as the procurement review manual) and systems (e.g., Electronic Commerce).

At Level 3-5, guidelines consist of legislation, broad and general policy statements, and procurement regulations that require extensive interpretation. The employee is an authority on developing and interpreting procurement guidelines, policies, regulations, and/or legislation. Employees working in staff positions generally draft agency procurement regulations or policies.

The position does not meet Level 3-5. The appellant works in an oversight rather than a policy development function. Whatever guidelines she may develop relate to procedural matters rather than policy concerns. Further, [higher level organizational component] does not represent agency level (this referring to either a Department or independent agency of the Federal government), but rather is a component of the Department of Health and Human Services.

Level 3-4 is credited.

450 points

Factor 4, Complexity

This factor covers the nature, number, variety, and intricacy of tasks or processes in the work performed, the difficulty in identifying what needs to be done, and the difficulty and originality involved in performing the work.

At Level 4-5, staff-level work is characterized by breadth of planning and coordination, or depth of problem identification and analysis, stemming from the variety of the procurement functions or from the unknowns, changes, or conflicts inherent in the issues. The employee is constantly balancing program and technical needs, the interests of the contractors, statutory and regulatory requirements, and the prevailing socioeconomic climate, to make decisions that are in the best interests of the Government. A representative staff assignment would be conducting program reviews of a wide range of procurement functions performed by subordinate activities.

The complexity of the appellant's work is consistent with Level 4-5. The subordinate procurement program reviews conducted by the appellant involve in-depth problem identification and analysis to ensure compliance with statutory and regulatory requirements while maintaining sensitivity to the interests of the [customer identifying information] organizations that may occupy the role of contractors.

The position does not meet Level 4-6. At that level, the work consists of broad contracting functions and activities involving several phases being pursued concurrently or sequentially with the support of technical, procurement, program, and management personnel within and outside the organization (e.g., developing guidance for contracting staff to follow throughout the acquisition of major systems, or advising program managers on the development of integrated acquisition strategies for a number of procurements supporting major agency programs.) The work concerns areas where issues are largely undefined, little or no established practices or precedents are available, and where new techniques and approaches need to be devised. Work at this level involves procurement systems or programs which require extensive analyses and continuing evaluation of potential approaches to establish comprehensive solutions, or the development of new concepts, theories, or programs which will influence the procedures and ideas of others or resolve unyielding problems.

The appellant's assignments are not of such scope or magnitude that they require the participation and efforts of other procurement and program personnel both within and outside the organization to devise strategies related to the procurement of major systems. Her role as

team leader in implementing Electronic Commerce throughout [higher level organizational component] is not comparable either in terms of scope or complexity to that contemplated at this level. The team consists of only three other [higher level organizational component] employees (a field representative, a computer specialist, and a finance employee) rather than the broad spectrum of employees that would be involved in large-scale procurements supporting major agency programs. The Electronic Commerce system will cover only small purchases rather than major acquisitions. The system itself will be a modification of an existing automated system, enhanced to allow for the electronic transmission of contracting documents. Its parameters are well-defined in terms of functional capabilities, i.e., it must be able to generate and transmit all of the documents involved in purchasing transactions. This is a Federally mandated program and many other agencies are farther along than [higher level organizational component] in their implementation efforts. Thus, from a technical standpoint the work to be accomplished is neither undefined, nor is there a lack of precedents available to provide guidance if necessary. The appellant indicated that the difficulties involved in implementing this system relate more to inadequate programming support rather than unyielding technical problems.

In terms of the appellant's ongoing responsibility for conducting periodic field reviews of contracting operations, the major limiting factor relates to the types of procurements common to [higher level organizational component] (medical supplies and equipment, construction and renovation services, standard office supplies and equipment), none of which are of the magnitude or complexity expected at this level and thus do not require the development of "integrated procurement strategies" or "new concepts, theories, or programs" to support major agency programs.

Level 4-5 is credited.

325 points

Factor 5, Scope and Effect

This factor covers the relationship between the nature of the work, and the effect of the work products or services both within and outside the organization.

At Level 5-4, the purpose of the work is to provide expertise as a specialist in a functional area of contracting by furnishing advisory, planning, or reviewing services on specific problems, projects, or programs (e.g., planning and conducting program evaluations of subordinate procurement activities; formulating approaches to procurement problems or issues requiring extensive analysis of a variety of unusual conditions, questions, or issues; or establishing procedures for implementing procurement policies or regulations.) The work affects a wide range of procurement activities, such as the operation of procurement programs in various offices or locations, or the accomplishment of significant procurement or technical program goals.

At Level 5-5, the purpose of the work is to resolve critical problems, or to develop new approaches for use by other contract specialists or for use in planning, negotiating, or administering major procurements. Recommendations or commitments are accepted as

authoritative, and frequently carry contracting officer authority for transactions involving sizable expenditures of staff, funds, and materials. The work involves such functions as planning, negotiating, or administering procurements for long-term systems or programs, with delegated final authority to obligate funds; developing innovative contractual arrangements to resolve critical or unusual procurement problems; establishing or advocating positions for the region, agency, or department on major procurement issues; developing procurement regulations for use by other contracting specialists; or performing other comparable work. The work affects the work of other experts within or outside the agency, e.g., the development of guides or procedures for use by subordinate contracting activities; the operation and evaluation of subordinate contracting programs; or the accomplishment of major procurements.

Both Levels 5-4 and 5-5 directly mention program evaluation work as an assignment example. Level 5-4 describes establishing procedures for implementing procurement policies or regulations, whereas Level 5-5 requires developing new approaches and procurement regulations. Level 5-4 describes complex contract actions and procurement problems requiring extensive analysis of unusual conditions, while Level 5-5 addresses such elements as major procurements and critical procurement problems. Thus, on balance, although the effect of the appellant's work within the organization may partially meet Level 5-5 in that she influences the operations and evaluation of subordinate contracting activities, its scope (i.e., the purpose, breadth, and depth of the assignment) is more aligned with Level 5-4 in terms of the organizational setting and the nature of the procurements typically carried out. Through her review of area contracting programs, the appellant may recommend the establishment of procedures to ensure compliance with procurement laws and regulations, [higher level organizational component] does not itself develop and promulgate regulations. Her work in implementing Electronic Commerce throughout the organization likewise represents a more efficient system for making small purchases rather than a new policy or regulation that fundamentally affects the types of transactions or commitments that other contracting specialists are authorized to make. Further, the mission of [higher level organizational component] is not such that it would undertake the types of long-term, high dollar value, extensive and major procurements normally expected at Level 5-5.

Level 5-4 is credited.

225 points

Factor 6, Personal Contacts

This factor includes face-to-face and telephone contact and other dialogue with persons not in the supervisory chain. The standard instructs that the levels selected under Factors 6 and 7 must be compatible, i.e., the personal contacts used as the basis for the level selected under Factor 7 must be the same as the contacts selected for Factor 6.

At Level 6-2, contacts are with employees in the same agency but outside the immediate organization, usually specialists representing the various disciplines involved in the procurement process. Contacts outside the agency include salesmen or local suppliers of common, off-the-shelf items.

The appellant's contacts are comparable to Level 6-2. Most of her contacts outside the immediate office are with procurement personnel in the area offices and in other DHHS bureaus.

The position does not meet Level 6-3. At that level, contacts are with specialists and managers from outside the employing agency, such as contractors, auditors, attorneys, and representatives of public action groups, professional organizations, the news media, or other Federal agencies (e.g., other departments or activities outside the chain of command). The purpose and extent of each contact is usually different, and the role and authority of each party is identified and developed during the course of the contact.

The appellant indicated that she has minimal contacts outside the Department. Since she occupies a staff-level position and thus is not directly involved in contract negotiation, she has infrequent dealings with contractors, including [identifying name of customer group] organizations.

Level 6-2 is credited.

25 points

Factor 7, Purpose of Contacts

This factor describes the purpose of the contacts identified under Factor 6.

At Level 7-3, contacts are to obtain agreement on previously determined goals and objectives through negotiation, persuasion, and advocacy, such as in obtaining compliance with procurement requirements, influencing contracting officers to adopt positions where there are conflicting options, or justifying contractual approaches to higher level reviewing officials.

The purposes of the appellant's contacts are consistent with Level 7-3. In reviewing area contracting activities, she must use skilled reasoning to persuade the senior contracting officers to change their operating procedures. These individuals are often resistant and present conflicting arguments and regulatory interpretations to support their positions.

The position does not meet Level 7-4. At that level, contacts are to justify, defend, and negotiate matters involving significant or controversial issues, or problems which require escalation because established channels and procedures have failed to resolve the problem. They may involve operational assignments where there are negotiations for procurements of considerable consequence, importance, and controversy, and where the employee is responsible for justifying and defending the agency position on issues that are strongly contested because of their impact or breadth. They may also involve serving on contract review boards at the department or independent agency level to advise on or approve major procurement actions. At that level, the employee assumes the lead in contract negotiations involving major systems and programs, in resolving disagreements or disputes between prime and subcontractors, and/or in effecting a compromise or developing acceptable alternatives.

There is no indication that the appellant performs any of these or comparable assignments. Any matters of this degree of controversy or importance would be dealt with at a higher organizational level.

Level 7-3 is credited. 120 points

Factor 8, Physical Demands

This factor covers the requirements and physical demands placed on the employee by the work assignment.

The appellant's work is mainly sedentary, with no special physical demands. This is a direct match to Level 8-1.

Level 8-1 is credited. 5 points

Factor 9, Work Environment

This factor considers the risks and discomforts in the employee's physical surroundings or the nature of the work assigned and the safety regulations required.

The appellant works in an office setting, with no unusual risks or discomforts. This is a direct match to Level 9-1.

Level 9-1 is credited. 5 points

Summary of Factors

<u>Factors</u>	<u>Level</u>	<u>Points</u>
Knowledge Required	1-8	1550
Supervisory Controls	2-4	450
Guidelines	3-4	450
Complexity	4-5	325
Scope and Effect	5-4	225
Personal Contacts	6-2	25
Purpose of Contacts	7-3	120
Physical Demands	8-1	5
Work Environment	9-1	<u>5</u>
Total		3155

The total of 3155 points falls within the GS-13 point range (3155-3600 points) on the grade conversion table provided in the standard.

DECISION

The appealed position is properly classified as Procurement Analyst, GS-1102-13.

This decision constitutes a classification certificate issued under the authority of section 5112(b) of title 5, United States Code. This decision is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government.